IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

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Criminal Misc. No. 56567-M of 2004.
Date of Decision: May 23, 2007.

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1. M/S A2Z Sanitary Wares, P.T.Usha Road, Ernakulam Kochi, Kerala through its proprietor Shri E.S.Jose.

2. Shri E.S.Jose, Proprietor of M/S A2Z Sanitary Wares, P.T.Usha Road, Ernakulam Koshi, Kerala.

Versus

1. The State of Punjab (Through Standing Counsel (Criminal) High Court of Punjab and Haryana) at Chandigarh.

2. M/S Satya Metal Industries, 1046, Venkateshwara Tower, Industrial Area, Jalandhar through its partner Shri Rajiv Kamboj.

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Present: Shri Wills Mathews, Advocate, with
R.S.Mamli, Advocate, for the petitioners.

Shri O.P.Hoshiarpuri, Advocate, for the complainant-respondent.

Ms. Nidhi Garg, Assistant Advocate General, Punjab, for the respondent-State.

R.S.Madan, J

This order of mine shall dispose of petition under Section 482 of the Code of Criminal Procedure, filed by the petitioner for quashing the complaint filed by the respondent under Section 138 of the Negotiable Instruments Act, 1881, (hereinafter to be referred to as the Act) against the petitioner in the Court of Shri Randhir Verma, Judicial Magistrate Ist Class, Jalandhar titled as Satya Metal Industries Versus A2Z Sanitary and another.

It is alleged that prior to the filing of this complaint under Section 138 of the Act, the petitioner has already paid the amount of the two cheques to the respondents vide two drafts of an amount of Rs. 10,000/- each bearing Nos 656289 and 656290 dated 15.09.2003 favouring M/S Satya Metal Industries, through Speed Post, which the

respondent had received and got them en-cashed. Despite payment of the amount , the respondent filed a complaint under Section 138 of the Act.

The petitioner has thus prayed that since the amount in questions has already been paid to the respondent, therefore, proceedings under Section 138 of the Act are not maintainable and is the abuse of process of law.

The respondent had appeared in person before this Court and made a statement, which has been recorded separately. The petitioner-complainant has stated that he has compromised the matter with the petitioner because he had paid the entire amount which he had claimed in the petition under Section 138 of the Act, presently pending in the Court of Shri Randhir Verma, JMIC, Jalandhar. He further submitted that he does not want to press the complaint under Section 138 of the Act and the same may be dismissed as withdrawn.

Statement of the counsel for the petitioner has also been recorded to this effect.

In view of the statement suffered by the respondent-complainant before this Court, the complaint dated 23.9.2003 under Section 138 of the Act, presently pending in the Court of Shri Randhir Verma, Judicial Magistrate Ist Class, Jalandhar is dismissed as withdrawn.

In this view of the matter, the learned counsel Shri Wills Mathews, Advocate for the petitioner submitted that since the parties have compromised and the complaint filed under Section 138 of the Act has been dismissed as withdrawn on the statement given by the complainant, he does not want to press the present petition under Section 482 of the Code of Criminal Procedure.

Since, the parties have compromised and the respondent has withdrawn his complaint under Section 138 of the Act, pending in the Court of Shri Randhir Verma, Judicial Magistrate Ist Class, Jalandhar,

consequently, the present petition under Section 482 of the Code of Criminal Procedure, is also dismissed as not pressed.

A copy of this order be sent to the court concerned for compliance.

(R.S.Madan)
Judge

May 23, 2007.
Malik